

APPROVED MINUTES*
SUNNYVALE CITY COUNCIL MEETING
TUESDAY, JANUARY 27, 2009

7 P.M. COUNCIL MEETING

SALUTE TO THE FLAG

Mayor Spitaleri led the salute to the flag.

ROLL CALL

PRESENT:

Mayor Anthony Spitaleri
Vice Mayor Christopher Moylan
Councilmember John Howe
Councilmember Ron Swegles
Councilmember Melinda Hamilton
Councilmember David Whittum
Councilmember Dean J. Chu

ABSENT:

None

STAFF PRESENT:

City Manager Gary Luebbers
Assistant City Manager Robert Walker
City Attorney David Kahn
Director of Community Development Hanson Hom
Transportation and Traffic Manager Jack Witthaus
Planning Officer Trudi Ryan
Director of Public Works Marvin Rose
Interim City Clerk Katherine Bradshaw Chappelle

PUBLIC ANNOUNCEMENTS

Councilmember Howe announced the “drop those medicines” program which allows residents to drop off unused medicines at local fire stations for safe, hazard-free disposal. Councilmember Howe stated sharps (needles and lancets) and illegal narcotics cannot be accepted. Councilmember Howe explained unused medicines must be handed to a public safety officer and may not be left outside a fire station.

Werner Gans stated he dropped off his unused medicines and it was a very quick and easy process. Gans urged residents to use this program.

CONSENT CALENDAR

MOTION; Vice Mayor Moylan moved, and Councilmember Swegles seconded, to approve the Consent Calendar.

VOTE: 7-0

1.A. Approval of Information/Action Items – Council Directions to Staff

**Approved as amended by Council on April 7, 2009*

Fiscal Items

- 1.B. RTC 09-021 List of Claims and Bills Approved for Payment by the City Manager – List Nos. 436 and 437**

Staff Recommendation: Council reviews the attached lists of bills.

- 1.C. RTC 09-018 Acceptance and Appropriation of the “AVOID Anti-DUI Program” Funds and Approval of Budget Modification #23**

Staff Recommendation: Council accepts and appropriates the Office of Traffic Safety monies for the AVOID Anti-DUI Campaign and approves Budget Modification No. 23.

- 1.D. RTC 09-019 Continuation of Supplemental Law Enforcement Funding**

Staff Recommendation: Appropriation of the full amount available from SLES into the City's Supplemental Law Enforcement Sub-fund to fully fund one patrol team captain

- 1. E. RTC 09-022 City of Sunnyvale Investment Report – 4th Quarter 2008**

Staff Recommendation: Council receives and files the investment report.

Contracts

- 1.F. RTC 09-024 Revision of Cumberland and Ellis Schools Sports Fields Master Plans to Accommodate New Classrooms and Related Facilities**

Staff Recommendation:

1. Council approves the Proposed Master Plan for Cumberland Elementary School sports field to include the new classrooms per Attachment A. and
2. Council approves the Proposed Master Plan for Ellis Elementary School sports field to include the new classrooms and facilities per Attachment B.

- 1.G. RTC 09-020 Award of a Contract for the Installation of an Alternative Monitoring System at the Water Pollution Control Plant (F0812-40) and Approval of Budget Modification No. 24**

Staff Recommendation:

1. Council awards a contract, in substantially the same form as the attached draft Purchase order and in the amount of \$117,384, to Advanced Engine Technologies Corporation (AETC) to furnish and install an Alternative Monitoring System on the Caterpillar diesel engines at the Power Generation Facility;
2. Council approves a project contingency in the amount of \$11,738; and
3. Council approves Budget Modification No. 24.

1.H. RTC 09-025 Authorization to Modify an Existing Contract for Vehicle Fuel (F0801-48)

Staff Recommendation: Council authorizes modification of an existing contract with Petro-Diamond, Inc., in substantially the same form as the attached draft change order, by extending the contract end date to June 30, 2009, for the purchase of unleaded gasoline for City vehicles.

1.I. RTC 09-026 Award of Request for Proposals No. F0809-20 for Engineering Design Services for Water Well Connections to Transmission Mains and Approval of Budget Modification No. 26

Staff Recommendation:

1. Council awards a contract, in substantially the same form as the attached draft and in the amount of \$148,120, to HydroScience Engineers, Inc. for engineering design services for water well connections to transmission mains;
2. Council approves a design contingency in the amount of \$22,218; and
3. Council approves Budget Modification No. 26 to provide additional funding for the project.

1.J. RTC 09-030 Authorization to Modify an Existing Contract for Technical Services Relating to the City's NPDES Permit and WPCP Operations Support (F0801-49)

Staff Recommendation: Council modifies an existing contract with EOA, Inc. in substantially the same form as the attached amendment to Consultant Services Agreement, by extending the contract for one additional year and implementing a new fee schedule for 2009, making a total six-year contract with a total not-to-exceed value of \$2,179,000.00.

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None

Mayor Spitaleri announced seating arrangements for the city manager, assistant city manager, city attorney and staff have changed. City staff now faces Council.

PUBLIC COMMENTS

Micki Falk stated Councilmember Chu, who lost his campaign for re-election, is currently sitting on the Council, and she was concerned this was done without receiving public opinion. Falk stated Councilmember Chu will obtain medical benefits along with Councilmember Lee; therefore, the City is paying benefits twice for the same position. Falk noted the process of allowing Councilmember Chu to sit in for Councilmember Lee was unethical and the process needs to be undone.

Councilmember Hamilton responded that medical benefits were not taken into consideration when Councilmember Lee's replacement was sought. Councilmember Hamilton stated Council attempted to find a replacement who represented the will of the voters and Councilmember Chu received the highest number of votes as a non-elected individual in the last election. Councilmember Hamilton explained that Councilmember Chu is not eligible for lifetime benefits.

Councilmember Howe explained the options Council had to fill Councilmember Lee's position were discussed during a noticed public meeting in December 2008.

Harriet Rowe spoke about the proposals that were offered for appointing an Interim Councilmember during the December meeting. Rowe supported the option chosen to select the Interim Councilmember, because it reflected the support from the largest number of people who voted for Councilmembers in the last election.

PUBLIC HEARINGS/GENERAL BUSINESS

2. RTC 09-014 Policy Supporting Connections to Regional Bicycle Facilities – Study Issue

Transportation and Traffic Manager Jack Witthaus presented the staff report.

Councilmember Swegles verified with Manager Witthaus that the comments he received from citizens were predominately in favor of the City reconsidering its policy on the Stevens Creek Trail.

Councilmember Whittum verified with Manager Witthaus that if a General Plan amendment were to be pursued, an environmental review would be required to review the impact of the policy change on the environment. Should an environmental impact report become necessary, then a public hearing before the Planning Commission and Council would be held and noticing would occur, as required for any public hearing. Manager Witthaus stated that because this policy is looking at a specific geographic area, staff would notify property owners adjacent to the creek corridor in Sunnyvale.

Councilmember Whittum verified with Manager Witthaus that an initial study would be done because this would be a General Plan amendment. The initial study would identify what level of impact would be involved in the policy change.

Vice Mayor Moylan stated that noticing requirements happen for projects, but to strike something from a policy should not require any noticing. Vice Mayor Moylan requested City Attorney David Kahn to respond regarding the implications of Alternative No. 4. City Attorney Kahn responded that noticing would be required for the individuals adjacent to the Stevens Creek corridor.

Vice Mayor Moylan stated striking language from the policy would not affect those who live near the Stevens Creek corridor. Planning Officer Trudi Ryan explained the California Environmental Quality Act (CEQA) broadly defines a project and a policy change would be reviewed as a project under CEQA guidelines, which would include some level of environmental review and noticing requirements.

Vice Mayor Moylan verified with Planning Officer Ryan that Council does not have all the information needed at this point to determine what level of review would be necessary should Council approve a policy change.

Director of Public Works Marvin Rose stated the study issue paper did not call for a work plan; however, staff is recommending a work plan. Prior to the work plan returning to Council, staff will perform the initial study, which would provide information on the environmental and notification requirements.

Vice Mayor Moylan verified with Director Rose that this study was ranked number one during the study issue process; therefore, Alternative No. 2 (consider study of Stevens Creek Trail policy but make no revisions to other City policy on regional bike facility connections) will proceed unless Council approved Alternative No. 4 this evening.

Councilmember Hamilton verified with Director Rose that Alternative No. 2 requires staff to move forward on Alternative No. 4. Councilmember Hamilton verified with Manager Witthaus that Alternatives No. 4 and No.2 are redundant.

Councilmember Whittum inquired if the policy were not in place, could the study be broader and less restrictive. Director Rose responded that question would be the subject of the study. Should Council want to change its policy, the vehicle for that change is a General Plan amendment. Manager Witthaus added that the technical study would provide information on alternatives and might guide the policy change.

Councilmember Whittum noted some of the answers to the questions were not obvious, such as how to manage the connection and enforcement, which are things that would need to be studied as part of this project. Councilmember Whittum stated there would be a lot of work to do, even if Alternative No. 4 were approved. Director Rose explained the first step may be to change the policy, in order for staff to be able to address the specifics.

Councilmember Swegles inquired as to which of the two alternatives would be the quickest to implement the trail change. Director Rose responded that because Council already approved the study issue, staff will need to complete Alternative No.4. One alternative is not quicker than the other. Director Rose explained if Council does not approve Alternative No. 4, the study issue will become a moot point. Council said they wanted to proceed with the study issue so, in effect, Council has decided to proceed with Alternatives No.2 and No.4.

Councilmember Chu stated the Metropolitan Transportation Commission (MTC) is working on a regional bike network that is not mentioned in the staff report and requested references be included regarding the City interconnecting with other facilities. Director Rose said the City has general policies supporting regional trails, and policies supporting specific trails such as the Bay Trail. Should Council move forward with the study issue, requiring an amendment to the General Plan, then language changes can be reviewed at that time.

Public hearing opened at 7:42 p.m.

Tristan Lawrence stated he is a daily user of the Stevens Creek Trail and spoke in favor of the vision and leadership exhibited by the City of Mountain View and the way they approached the trail over the past years. Lawrence stated he would like to see Council delete Council Policy 2.2.C.5., and work together with neighboring cities on how best to enhance the trail.

Greg Haupt expressed support for Alternative No. 4.

Ray Murakami expressed concern about Alternatives No. 2 and No.4 and stated he supported Alternative No.1. Murakami noted concerns about the side routes into the trail that intersect residential areas, and stated an easement to the trail would go over West Valley Elementary School. Murakami expressed additional concerns over funding a bicycle trail during the current poor economy and City's budget shortfall.

Vice Mayor Moylan verified with Murakami that he lives near the creek. Murakami clarified his concern was over the easements to the trail and not the proximity of the trail to his home.

Kevin Jackson, Bicycle and Pedestrian Commission (BPAC) Chairperson, explained the commission had a split decision on this item. Jackson stated the commission was in complete agreement the current policies are very good, with the exception of Council Policy 2.2.C.5., which all commission members agreed needed to be changed. Jackson stated the discrepancy among the members was how best to achieve the policy change. Two members voted to ask Council for an immediate change, and the other three members favored the study issue in order to gain staff support because they believed it was a more reliable way to achieve the needed change. Jackson encouraged Council to approve Alternative No. 4; however, should that not pass, then Alternative No. 2 would be the next choice.

Vice Mayor Moylan stated that Jackson was quoted in the BPAC minutes as directing the commission to support the staff recommendation because Council would not support anything staff did not recommend. Vice Mayor Moylan encouraged the commission to recommend to Council what they truly supported and not just the staff recommendation. Jackson responded the commission was concerned about addressing the needs of the City of Los Altos, which would require a quick decision from the City. Jackson stated the commission also did not want to disregard staff's informed opinions. Vice Mayor Moylan explained Council has often agreed with a board or commission over the objections of staff.

Councilmember Whittum asked Jackson if there would be anything left to study if Council were to approve Alternative No. 4. Jackson responded there would little left to study.

Tim Oey expressed support for the Stevens Creek Trail and approval of Alternative No. 4.

Mark Hlady expressed support for Alternative No. 4 and urged the City to be proactive in initiating this trail with other cities. Hlady stated this trail should be seen as a gift from the other cities to Sunnyvale, and it should be embraced.

Garth Williams stated support for Alternative No. 4 and the quick removal of the section from Council policy. Williams stated his concern was the focus of the study issue on the City of Los Altos feasibility study, which is not the issue that needs to be currently addressed. Williams explained the policy section needs to be removed first, and then the City can participate in looking at the other trail alignments that may emerge from the Interagency Coordination Committee.

Patrick Grant spoke in support of the City's need for trails and gave a brief presentation on the proposed Stevens Creek Trail. Grant explained that if a trail is installed, the City would gain approximately 20 to 30 acres of open space that could be turned into a park area. Councilmember Whittum verified with Grant that the area could be reached by walking from residential areas if the trail were built.

Los Altos resident Jeannie Bruins stated support for Alternative No. 4 because it sends a clear and specific message. Bruins encouraged Council to not limit the study to the Los Altos feasibility study, but to also look at the regional approach being taken by the four cities.

Councilmember Whittum verified with Bruins the four-city work group was being formed with Sunnyvale and Cupertino selecting their two representatives this week. Bruins explained the overall objective of this group is to look at the ideal completion of this vision in order to come up with the right regional solution.

Aaron Grossman, Executive Director of the Friends of the Stevens Creek Trail, explained the group preferred a route which followed the creek, as appropriate, and did not advocate having the trail go through or adjacent to residential property. Grossman stated the group expected the City of Sunnyvale to hold a public hearing process for any trail plans within its borders. Grossman spoke in support of the trail and explained the positive aspects of having a trail route within the City of Sunnyvale.

Councilmember Whittum verified with Grossman the idea of having a buffer for private residents resulted from the public hearing discussion about areas where the trail came close to private property.

Public hearing closed at 8:12 p.m.

MOTION: Councilmember Whittum moved, and Vice Mayor Moylan seconded, to approve Alternative No. 4: Revise City policy on the Stevens Creek Trail, specifically Council Policy 2.2.C.5.

Councilmember Whittum explained it is up to Council to conduct a good public input process. Councilmember Whittum urged support of the motion to begin the General Plan amendment process.

Councilmember Howe offered a friendly amendment to ask the city manager to draft a letter for the Mayor's signature that would be sent to the cities of Mountain View, Los Altos and Cupertino, and the Water District, indicating Sunnyvale is cooperating in the process and is willing to participate in discussions.

Councilmember Whittum accepted the friendly amendment.

Restated MOTION: Councilmember Whittum moved, and Vice Mayor Moylan seconded, to approve Alternative No. 4: Revise City policy on the Stevens Creek Trail, specifically Council policy 2.2.C.5

with direct the city manager to draft a letter for the mayor's signature to be sent to the cities of Mountain View, Los Altos and Cupertino, and the Water District, indicating Sunnyvale is cooperating in the process and is willing to participate in discussions.

Vice Mayor Moylan stated it is important to note that it is difficult for the City of Sunnyvale to participate effectively in joint meetings with the other cities until this policy is removed. Vice Mayor Moylan expressed the importance of early planning and cited examples of cooperation between the cities.

Vice Mayor Moylan stated that 15 years ago staff recommended Council not approve any use of the Stevens Creek Trail in the City of Sunnyvale. During the public hearing, 30 members of the public spoke who were divided in their opinions for the trail; however, a huge public uprising against the Stevens Creek Trail did not occur. Vice Mayor Moylan noted the residents appeared to be divided, and since staff was opposed to the trail at the time, Council followed staff's recommendation. Many things have changed since that time and the City is overdue in removing Council Policy 2.2.C.5.

Vice Mayor Moylan stated it is important to note the options for this trail will increase if Sunnyvale is involved in this process. Vice Mayor Moylan explained there are many ways to design this trail without impacting the residents in the area. Vice Mayor Moylan said other jurisdictions stated they would allow the trail to run along the existing dirt road owned by the water district, and also suggested use of existing facilities, which would not require diverting people away from the creek. Vice Mayor Moylan stated to do this right requires the removal of this section of the policy and the selection of a City representative for the four-city work group. The City representative would return to Council with information from the group, at which point individual cities may raise objections, if needed.

Councilmember Chu stated he supported revising the policy on the Stevens Creek Trail; however, he was concerned over transparency. Councilmember Chu noted the title of the study issue, *Policy Supporting Connections to Regional Bicycle Facilities*, does not state that it is for revision of the policy for the Stevens Creek trail. Councilmember Chu requested the title be changed to specifically state, *Revision of Stevens Creek Trail Policy*, to inform the public that Council is looking to specifically revise the policy.

Councilmember Whittum verified with Councilmember Chu that he was requesting a friendly amendment to change the title of this item and place it on the next meeting agenda.

Councilmember Whittum stated his motion was to specifically strike paragraph 2.2.C.5. Councilmember Whittum did not accept the friendly amendment and explained there will be a public hearing on Stevens Creek Trail and those living within 500 feet of the trail will be noticed. Councilmember Whittum explained this motion is not the action to amend the General Plan; instead, it is an action to direct staff to come back to Council with an amendment to the General Plan.

Councilmember Hamilton noted the staff recommendation for this item did reference the Stevens Creek Trail.

Councilmember Hamilton verified with Director Rose if Council selects Alternative No. 4, then the direction will be to return to Council with a General Plan amendment, which would take the place of the study issue.

City Attorney David Kahn provided legal clarification regarding Councilmember Whittum's previous statement that the motion was to specifically strike paragraph 2.2.C.5. The appropriate action at this time would be to initiate a General Plan Amendment to remove the policy; therefore, the action tonight would not be to actually strike paragraph 2.2.C.5.

Councilmember Whittum agreed and noted he used the word strike in order to clarify Alternative No. 4 (potentially ambiguous) and requested the General Plan Amendment strike 2.2.C.5.

VOTE: 7-0

3. RTC 09-027 Intergovernmental Assignment to a Stevens Creek Trail Interagency Coordination Committee

Transportation and Traffic Manager Jack Witthaus presented the staff report and noted the City of Mountain View is the lead on forming this committee.

Councilmember Whittum verified with Manager Witthaus an alternate for this appointment was not requested; however, Council has the discretion to add an alternate.

Councilmember Howe verified with the city manager Council will appoint a representative and the city manager will appoint the appropriate staff representative for this committee.

Vice Mayor Moylan explained Manager Witthaus had already been appointed as the staff representative on this committee.

Public hearing opened at 8:30 p.m.

No speakers

Public hearing closed at 8:31 p.m.

MOTION: Councilmember Swegles moved, and Councilmember Hamilton seconded, to appoint Vice Mayor Moylan to serve on the Stevens Creek Trail Coordination Committee until January 2010.

VOTE: 7-0

Councilmember Whittum inquired about appointing an alternate and Mayor Spitaleri stated he preferred to wait until the first meeting was held to determine if there was a need for an alternate.

4. RTC 09-029 Request by staff for continuance of 2008-0485: Business Identification on Ground Signs and Size of Street Address Numbers (Study Issue)

Planning Officer Ryan requested this item be continued to the Council meeting of February 10, 2009.

Public hearing opened at 8:32 p.m.

Christopher Selim stated he will hold his comments until February 10, 2009.

Public hearing closed at 8:33 p.m.

MOTION: Vice Mayor Moylan moved, and Councilmember Swegles seconded, to continue this item to February 10, 2009.

VOTE: 7-0

5. **RTC 09-017 2008-0946: Appeal by the applicant of a decision of the Planning Commission denying an application for a Special Development Permit to allow a 136-square foot shed at a single-family residence resulting in more than 40% lot coverage. The property is located at 506 Davenport Ct. (near Yukon Dr.) in an R-2/PD (Low-Medium Density Residential/Planned Development) Zoning District**

Councilmember Howe recused himself because he owns property in the area.

Councilmember Howe left the dais at 8:33 p.m.

Planning Officer Ryan presented the staff report.

Vice Mayor Moylan stated the applicant had not taken down their non-permitted structure. Therefore, should Council approve the smaller structure, what assurance would exist that the other structure would be taken down. Planning Officer Ryan explained that within the conditions for this item, the existing structure would need to be taken down by March 1, 2009.

Public hearing opened at 8:54 p.m.

Jian Miremadi, appellant, spoke in favor of his project. Miremadi stated concern over achieving completion of his project by the date required and requested approval of additional time to complete his project.

Councilmember Hamilton inquired as to why the appellant did not comply with removal of the shed since that was one of the required conditions during the addition to his home. Miremadi responded he had budget issues and could not afford to remove the shed and was unaware he could appeal the decision to remove the shed. Miremadi stated he later found out he could appeal the condition to remove the shed. Councilmember Hamilton explained the appeal process is over and this item is a new application for a new shed. Miremadi stated that rather than spend the money to remove the shed; he wanted to modify the shed to meet the conditions allowed.

Councilmember Swegles verified with Planning Officer Ryan there are not any building code regulations for a structure which is 120 square feet or less in size; however, some zoning code provisions do apply as listed on page 6 of the staff report.

Councilmember Swegles verified with Miremadi the roof of the structure would be removed and the size of the structure reduced. Councilmember Swegles questioned the stability of the structure after the reduction. Miremadi explained the structure is only for storage and will be structurally sound.

Mayor Spitaleri verified with Planning Officer Ryan the demolition would require a permit and the applicant will need to confer with the building department prior to demolition. Mayor Spitaleri expressed concern as to whether the applicant would have enough time to complete the necessary City processes along with the reduction work on the shed by March 1, 2009. Director of Community Development Hanson Hom explained obtaining a demolition permit is done over the counter and is a quick process. Director Hom stated as the community development director, he has the ability to grant the appellant additional time beyond March 1 if

there is a reasonable cause for the delay. Mayor Spitaleri stated concern over the short time period and Director Hom responded Council had the discretion to grant additional time to the appellant.

Councilmember Hamilton verified Miremadi used surplus materials from his home addition to finish the inside of the shed. Councilmember Hamilton explained that as a condition of the permit issued for Miremadi's home addition, he was required to tear down the shed, yet he used materials from his addition inside the shed and did not comply with the condition. Miremadi explained the shed was built to address storage needs and he was not informed of what he was able to do with the shed. Miremadi stated he did indeed want to keep the shed and if he had known that he could have adjusted the size of the shed to comply, he would have done so at the time of construction...

Councilmember Swegles verified Miremadi received one verbal quote of \$5,000 for tearing down the shed. Councilmember Swegles explained there are local shed companies that will remove the old shed at no cost when replacing it with a new shed. Councilmember Swegles inquired if Miremadi contacted a shed company to obtain a quote for a new shed, given that the old one would be removed for no cost. Miremadi stated he had not contacted any shed companies, but he did go to Orchard Supply and identified a flimsy shed which cost approximately \$3,000. Councilmember Swegles explained there are companies that would build a sturdy shed at a cost of approximately \$3,000 that would meet the City's requirements. Miremadi stated he had not explored or contacted those types of companies.

Councilmember Hamilton inquired why the shed has two rooms, and Miremadi explained the first room is for children's toys and the second room is for rugs and valuables. Miremadi stated if the size of the shed is reduced, the additional room would be eliminated.

Public hearing closed at 9:03 p.m.

MOTION: Vice Mayor Moylan moved, and Councilmember Chu seconded, to approve Alternative No. 1: Council grants the appeal and approves the Special Development Permit for a 120-square-foot shed, 6-feet, 6-inches in height, with the attached conditions.

Mayor Spitaleri offered a friendly amendment to allow a 60-day compliance timeframe.

Friendly amendment accepted.

Restated MOTION: Vice Mayor Moylan moved, and Councilmember Chu seconded, to approve Alternative No. 1: Council grants the appeal and approves the Special Development Permit for a 120-square-foot shed, 6-feet, 6-inches in height, with the attached conditions **with** allowing a 60-day compliance timeframe.

Councilmember Hamilton stated she opposed the motion. Councilmember Hamilton cited a previous example where Council required a resident to remove a shed. Councilmember Hamilton stated the appellant was given clear direction to remove the shed and he did not comply. Councilmember Hamilton stated Council needs to be consistent with decisions about removing sheds that are non-compliant.

Vice Mayor Moylan stated he remembered the shed Councilmember Hamilton cited and at that time, he asked the applicant if they could modify their shed to bring it into compliance, and the applicant said they could not do so. In this case, the appellant is able and willing to bring the shed into code compliance. Vice Mayor Moylan stated Council is being consistent in giving the same opportunity to bring a shed into compliance.

VOTE: 4-2 (Councilmembers Whittum and Hamilton dissented, Councilmember Howe recused)

6. **ORDINANCE** **2008-0238 - Dale Meyer Associates [Applicant] Nikoley Richard L and**
RTC 09-023 **Beatrice F [Owner]: Application for related proposals for a property**
 located at 127 W. California Avenue (near N. Murphy Ave.) in an R-3
 (Medium Density Residential) Zoning District.
 • **Rezone from R-3 (Medium Density Residential) to R-3/PD (Medium**
 Density Residential/Planned Development) Zoning District,
 • **Special Development Permit to allow 5 residential townhomes,**
 • **Tentative Map to subdivide one lot into five lots and one common lot.**

Councilmember Howe returned to the dais at 9:09 p.m.

Planning Officer Trudi Ryan presented the staff report.

Public Hearing opened: 9:13 p.m.

Dale Meyer, architect for the project, stated the correct side yard setback is 7 feet, and projections meet the definition of a bay window.

Councilmember Hamilton verified with Meyer that all six units are occupied and occupants are aware of what is going on.

Councilmember Swegles stated the new setbacks will place the units fairly close to the street. Meyer explained there will be 12 feet of landscaping to the City street that extends after the 9-foot setback.

Councilmember Swegles verified with Planning Officer Ryan staff evaluated the applicant's request for deviation. Planning Officer Ryan explained the porch is set back 9 feet, and the building itself has a 15-foot setback, with an even further setback on the east side.

Public Hearing closed: 9:20 p.m.

MOTION: Vice Mayor Moylan moved, and Councilmember Swegles seconded, to approve Alternative No. 1: Council introduces an ordinance to rezone 127-133 W. California Ave. from R-3 to R-3/PD and approves the Special Development Permit and Tentative Map for five units and one common lot with attached conditions

VOTE: 7-0

7. **ORDINANCE** **2008-1056 – Application for related proposals located at 615 Dunholme**
RTC 09-028 **Way (near Floyd Ave.) in an R-0 (Low Density Residential) Zoning**
 District. (APN: 309-16-007) NC;
 • **Parcel Map to subdivide one lot into two lots;**
 • **Rezone from R-0 (Low Density Residential) to R-0/PD (Low Density**
 Residential/Planned Development) Zoning District;
 • **Special Development Permit to construct an additional single family**
 home

Planning Officer Trudi Ryan presented the staff report and explained Council is considering this item because of the rezoning that is part of the application.

Public hearing opened at 9:24 p.m.

John and Tina Tran stated they had no comments, but would be available for questions.

Public hearing closed at 9:25 p.m.

MOTION: Councilmember Chu moved, and Councilmember Whittum seconded, to approve staff recommendation: Alternative No. 1 - Council introduces an ordinance to rezone 615 Dunholme Way from R-0 to R-0/PD, and approves the Special Development Permit and Parcel Map with attached conditions.

Interim City Clerk Chappelle read into the record the titles of ordinances for Items 6 and 7 in sequential order.

Vice Mayor Moylan stated he would not support this motion and explained the findings did not meet for the Special Development Permit. Vice Mayor Moylan stated this project does not meet one of the goals of the General Plan, which requires that new development shall be compatible with adjacent neighborhood land uses. There is no adjacent flag lot construction. Vice Mayor Moylan stated another goal would be that this project meets the character of the neighborhood, which it does not, due to the mass of this project and the flag lot orientation, which are incompatible with the neighborhood.

Vice Mayor Moylan stated that four out of seven planning commissioners were unhappy with this project; however, they reluctantly gave approval. Vice Mayor Moylan encouraged the Planning Commission to stick to their opinions and if they are not happy with a project, then do not approve it.

Vice Mayor Moylan restated flag lots are not compatible with the adjacent land uses and do not meet the character of the neighborhood. Vice Mayor Moylan stated he would not support the motion, because he could not support either of the findings.

VOTE: 6-1 (Vice Mayor Moylan dissented)

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Vice Mayor Moylan thanked Council for appointing him the new intergovernmental responsibility for the Stevens Creek Trail and he was confident if the trail is ever brought to Sunnyvale, it will be handled in such a way that it will be beneficial to the community.

Councilmember Swegles stated he attended the Bay Area Water Supply and Conservation Agency (BAWSCA) meeting and the discussion centered on the water shortage. Councilmember Swegles stated it is apparent that water rates will be raised, although Sunnyvale has one of the lowest rates in the area. Councilmember Swegles urged citizens to conserve water, and stated members of the public may contact him to receive a CD from BAWSCA regarding water conservation.

Councilmember Swegles announced he attended a meeting in Sacramento regarding housing and human services, and the main topics were budgets and protecting funds for affordable housing.

Mayor Spitaleri announced he attended the Conference of Mayors and the number one concern was the impact of the economy on all cities. Discussion occurred over the anticipated federal government recovery funds, and the need to lobby congressional representatives to assist with recovery monies going directly to cities and not to the state. Mayor Spitaleri stated it is important for the City to lobby for those funds since all cities are competing for them.

Mayor Spitaleri stated there is money available for cities to use alternative-fuel sources and it is important for the City to pursue this money-saving opportunity.

Mayor Spitaleri stated another item discussed at the conference was the ability to reduce costs by retrofitting buildings with energy-efficient items and utilizing green principles. Mayor Spitaleri stated a discussion occurred regarding megawatts and questioned staff as to how many megawatts the City saved, and whether the City has a set a goal to reach a certain level. Mayor Spitaleri requested information from staff and stated there are a lot of programs and opportunities available to reduce costs, create jobs and protect the environment.

NON-AGENDA ITEMS & COMMENTS

- COUNCIL:**
- Councilmember Whittum requested staff to come back to Council with information about construction issues surrounding the Borregas Bridge.
 - City Manager Luebbers stated that within 24 hours he will send a response to Council regarding the questions both Mayor Spitaleri and Councilmember Whittum raised.
 - Councilmember Whittum requested an update on the status of the acre of park land (north of Duane) that was accepted by Council last year.
 - Councilmember Whittum stated the sub-committee regarding public campaign financing met earlier today, and Vice Mayor Moylan identified the City could save approximately \$400,000 if the City's elections were moved to an even-year election cycle. Councilmember Whittum stated he supported this concept being evaluated within the budget process this spring.

STAFF: None

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- RTC 09- 031 Opportunity for Council to appeal decisions of the Planning Commission of January 12, 2009 and the Administrative Hearing of January 14, 2009
- Draft Minutes of Board of Library Trustees Meeting of January 5, 2009
- Draft Minutes of Heritage Preservation Commission Meeting of January 14, 2009
- Draft Minutes of Parks and Recreation Commission Meeting of January 14, 2009

ADJOURNMENT

Mayor Spitaleri adjourned the Council Meeting at 9:36 p.m.

Katherine Bradshaw Chappelear
Interim City Clerk

Date